

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD

ORDER OF ADOPTION INFORMATION DISCLOSURE

ARTICLE 13. INFORMATION DISCLOSURE

§ 1399.180. Statement of Policy.

- (a) It is the policy of the Speech-Language Pathology and Audiology Board to permit the maximum public access to information in its possession consistent with the requirements of the California Public Records Act (Govt. Code § 6250 et seq.), the Information Practices Act (Civ. Code § 1798 et seq.), Section 803.1 of the Business & Professions Code and the individual's right of privacy guaranteed by the California Constitution (Art. I, § 1).
- (b) In addition, because "protection of the public is the highest priority for the Speech-Language Pathology and Audiology Board," and because its licensees provide vital services that have a direct impact on the health and well-being of the general public, the Board has determined as a matter of general policy that information pertaining to a consumer complaint has a direct and immediate relationship to the health and safety of that person.

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253, Government Code. Reference: Sections 6250, 6252, and 6253, Government Code; Section 2531.02, Business and Professions Code.

§ 1399.181. Status of Licensees.

The Board shall use the following categorical description when referring to licensed speech-language pathologists or audiologists either in response to public inquiries or in posting information on its website.

- (a) A licensed speech-language pathologist or audiologist is not considered to be in "good standing" if he or she:
 - 1) Is subject to an order issued by the Board or any other civil, criminal or administrative court or agency that limits or in any way restricts his or her practice.
 - 2) Has entered into a settlement with either the Board, any other administrative agency, the Attorney General, or any civil or criminal prosecutor which in any way limits or restricts his or her practice.
 - 3) Has been disciplined or suspended following conviction of a crime

substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist as described in Sections 2533 and 2533.1 of the Business and Professions Code and Section 1399.156.1 of these regulations.

- (b) Any licensed speech-language pathologist or audiologist who does not have a “good standing” designation may petition the Board to have this designation changed. The petition shall be heard before an administrative law judge designated in Section 11371 of the Government Code and pursuant to the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; and Section 6253, Government Code. Reference: Sections 2533, 2533.1, Business and Professions Code; Section 11504, Government Code.

§ 1399.182. Requirements for Information Disclosure.

The Speech-Language Pathology and Audiology Board will disclose the following information, if known, upon any request regarding any speech-language pathologist or audiologist licensed in California:

(a) Current status of a license, issuance and expiration date of a license, and the identity and date of all undergraduate and graduate degrees awarded.

(b) Any public action or administrative decision against any speech-language pathologist or audiologist, and any disposition thereof, taken by the Board, another state or the Federal Government including, but not limited to:

- 1) the filing of an accusation;
- 2) licensure revocations;
- 3) denial of an application for licensure;
- 4) temporary restraining orders;
- 5) interim suspension orders;
- 6) citations, infractions, or fines imposed;
- 7) limitations on practice ordered by the board including those made part of a probationary order or stipulated agreement; and
- 8) public letters of reprimand.

The following disclaimer shall be included with these disclosures:

“Any adverse judgment or administrative order is subject to appeal or challenge by the speech-language pathologist or audiologist. For example, if

an order revoking the license of a speech-language pathologist or audiologist is adopted by the Board, he or she can challenge that order by filing a petition for a writ of mandamus in superior court. If this court determines the order was issued contrary to law, it can vacate the Board's action and order that the speech-language pathologist or audiologist be reinstated."

(c) Accusations which have been filed and later withdrawn shall be retained in the board's files for a period of one year after the accusation is withdrawn.

(d) Civil judgments in any amount of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice by a speech-language pathologist or audiologist, or by his or her rendering unauthorized professional services, whether or not vacated by a settlement after entry of the judgment that have not been reversed on appeal, including the date and amount of judgment, the court and case number, a brief summary of the circumstances as provided by the court, plus any information the Board possesses pertaining to the disposition of the case following entry of judgment. The Board shall also include the following disclaimer with such disclosures:

"Any civil judgment is subject to appeal by the losing party. For example, if a judgment is entered against a speech-language pathologist or audiologist, he or she can appeal to a higher court. If this court determines the judgment was entered in error, it can either vacate it or reduce the amount of any money damages awarded against the speech-language pathologist or audiologist."

(e) Arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice of the speech-language pathologist or audiologist or by his or her rendering unauthorized professional services.

(f) California felony convictions reported to the board on or after January 1, 1991, including the nature of the conviction, the date of conviction, the sentence, if known, the court of jurisdiction, and an appropriate disclaimer including, but not limited to, the accuracy of the information provided.

(g) Summaries of any disciplinary actions taken at a hospital or any other type of health care facility that result in the termination or revocation of staff privileges of a speech-language pathologist or audiologist for medical disciplinary cause or reason.

(h) Matters that have been referred to the Attorney General for the filing of an accusation or statement of issues; provided that:

- 1) The matter has not been rejected by the Attorney General; and
- 2) The following disclaimer accompanies the disclosure:

“Referral of a matter to the Attorney General for the filing of an accusation or statement of issues only occurs after an investigation has been conducted by the Board and a determination has been made that the actions of the speech-language pathologist or audiologist are of a nature that should warrant disciplinary action. In some instances, however, the Attorney General may determine that disciplinary action is not warranted. Such cases will normally not result in the filing of a formal accusation. When an accusation is filed, the speech-language pathologist or audiologist will be given notice and the right to request a hearing before an independent administrative law judge. At such a hearing, the Board has the burden of proving the allegations contained in the accusation. Unless a legal determination is made that the Board has sustained this burden, no disciplinary action may be taken against the speech-language pathologist or audiologist.”

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253, Government Code. Reference: Section 129, Business and Professions Code; and Sections 6250, 6252, and 6253, Government Code.

1399.183. Disclosure of Complaint History.

The Board shall maintain records showing the complaints received against speech-language pathologists or audiologists and, with respect to such complaints, shall make available to inquiring members of the public the following information:

(a) The nature of all complaints on file which have been investigated by the Board and referred for legal action to the Attorney General, including:

- 1) The date of the complaint;
- 2) A brief summary of the nature of the complaint; and
- 3) Its disposition.

(b) Under no circumstances shall the name, identity, or information that might lead to the discovery of the identity of the complainant, patient, or client be disclosed.

(c) Information concerning the complaint shall be accompanied by the disclaimer set out in Section 1399.182(h)(2). If no action is taken by the Attorney General, records of the complaint shall be deleted from the Board's complaint disclosure system no later than one year after receipt of the decision by the Attorney General to take no action.

(d) If a complaint results in legal action and is subsequently determined by the Board, the Attorney General, or a court of competent jurisdiction not to have merit, it shall be deleted from the complaint disclosure system.

(e) If a complaint results in a criminal prosecution, the Board will disclose the

current status of the prosecution and any sentence imposed. If the prosecution results in an acquittal or is dismissed, the information described in this subdivision, including the existence of the complaint, shall be deleted from the complaint disclosure system.

(f) Information about a complaint shall not be disclosed in the complaint history report if:

- (1) The disclosure might compromise an investigation or prosecution; or
- (2) The disclosure might endanger or injure the complainant or a third party.

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253, Government Code. Reference: Section 129, Business and Professions Code; Sections 6250, 6252, and 6253, Government Code; Section 1798.24, Civil Code.

1399.184. Disclosure of Complaint Information to Licensee Who is the Subject of the Complaint.

With respect to a licensed individual inquiring about his or her own complaint history, the Board will provide a summary of all complaints in its possession but not disclose the source or identity of the complainant.

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253, Government Code. Reference: Sections 129 and 800, Business and Professions Code; Sections 6250, 6252, and 6253, Government Code; Sections 1798.24, 1798.32, and 1798.38, Civil Code.

1399.185. Disclosure of Citations.

Every citation that is issued shall be disclosed to an inquiring member of the public. Citations that have been resolved, by payment of the administrative fine or compliance with the order of abatement, shall be purged five (5) years from the date of resolution. A citation that has been withdrawn or dismissed shall be purged immediately upon being withdrawn or dismissed.

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253, Government Code. Reference: Sections 6250, 6252, and 6253, Government Code.

1399.186. Disclosure of Civil Settlements.

Upon request, the Board will disclose the following information which is in its possession concerning settlements of civil actions in an amount of \$30,000 or more seeking recovery of damages for death or personal injury caused by the professional negligence, errors, or omissions of a speech-language pathologist or audiologist or his or

her unauthorized practice.

- (a) The date and amount of the settlement;
- (b) The case number, court and parties to the civil action; and
- (c) The following disclaimer:

“Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the speech-language pathologist or audiologist. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice in fact occurred.”

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253 Government Code. Reference: Sections 6250, 6252, and 6253, Government Code

1399.187. Disclosure of Information Concerning Licensed Speech-Language Pathologists or Audiologists on the Board’s Website.

For each licensed speech-language pathologist or audiologist, the Board will maintain on its website all of the information described in subdivision (a) of Section 1399.182 of these regulations as well as information on whether the speech-language pathologist or audiologist is in “good standing” as that term is used in Section 1399.181. If the speech-language pathologist or audiologist is not in good standing, the website shall indicate what restrictions, legal actions, orders, or discipline are currently pending.

NOTE: Authority cited: Sections 129 and 2531.95, Business and Professions Code; Section 6253, Government Code. Reference: Section 129, Business and Professions Code.

Dated: _____

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Executive Officer
Speech-Language Pathology and
Audiology Board